

REMARKS

Applicants respectfully request reconsideration of the claims in view of the following remarks. No amendments have been made to the claims. The current Listing of Claims is provided as a convenience for the Examiner. Claims 1, 6-8, 12, and 30-37 are pending. Applicants submit the claims are in condition for allowance.

Interview

On March 26, 2008, Applicants' representatives Eric DeMaster and Denise Kettelberger contacted Art Unit 1642 Supervisor Eileen O'Hara by telephone to discuss the present application. The written description rejection was discussed. On April 4, 2008, Examiner O'Hara contacted Applicants' representative Eric DeMaster by telephone and indicated that claims 1, 6-8, 12, and 30-37 were in condition for allowance. Applicants thank Examiner O'Hara for the opportunity to discuss the application.

Written Description

Claims 1, 7, 12, 30, 32, 34, and 36 were rejected under 35 U.S.C. § 112, first paragraph as lacking written description. The Office Action alleges the specification does not adequately describe an isolated EG-VEGF polypeptide comprising at least 95% amino acid sequence identity with residues 20 to 105 of SEQ ID NO:2, wherein the polypeptide promotes proliferation of adrenal cortex-derived capillary endothelial cells. Applicants respectfully traverse this rejection and submit that the claims satisfy the written description requirement of § 112, first paragraph for the reasons provided in the response filed on October 26, 2007.

Withdrawal of the rejection is respectfully requested.

Double Patenting

1) Claims 1, 6-8, 12, and 30-37 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 7,119,177. Without acquiescing to the rejection and solely for the purpose of advancing prosecution of the

present application, Applicants submit herewith a terminal disclaimer in compliance with 37 CFR 1.321(c). Withdrawal of the rejection is respectfully requested.

2) Claims 1, 6-8, and 12 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 11, and 104-108 of copending application 11/537,382. Applicants respectfully traverse this rejection.

If a provisional non-statutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications and the later-filed application is rejectable on other grounds, the Examiner should withdraw the provisional ODP rejection and permit the earlier filed application to issue as a patent without a terminal disclaimer. MPEP § 804(I)(B)(1). The present application was filed on October 22, 2003, while copending Application No. 11/537,382 was filed on September 29, 2006. The present application is therefore the earlier filed of the two applications and a terminal disclaimer is not required in the present application. Withdrawal of the rejection is respectfully requested.

Conclusion

In view of the above remarks, Applicants submit the claims are in condition for allowance and respectfully request a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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